

March 10, 2006

FOR PUBLIC RELEASE

SUBJECT: Advisory Opinion A02-06

The School Ethics Commission is in receipt of your request for an advisory opinion. You have asked whether, as a member of the board, you can express your opinion regarding the district's proposed budget to the press in a letter to the editor of your local newspaper.

At its meeting on February 28, 2006, the Commission, pursuant to its authority in N.J.S.A. 18A:12-28(b), advised that you would not violate the Act by sending a letter to the editor expressing your opinion about the budget as long as, in the letter, you do not hold yourself out as a board member and the information is accurate and not confidential.

The Commission notes that board members do not surrender the rights that they have as citizens such as freedom of speech when they become members of a school board. However, in exercising those rights, board members must comply with the School Ethics Act. In I/M/O Eileen Quinn, C45-04, (February 7, 2005), Commissioner decision (March 23, 2005), the Commission found that a board member violated N.J.S.A. 18A:12-24.1(e) when she printed and distributed a flier during her reelection campaign which contained incomplete fiscal information regarding the tax impact of the board's budget. The Commission found the board member took private action that compromised the board because the information in the flier was misleading and because the flier, distributed prior to passage of the budget, was designed to have an impact on the budget, which was defeated by a slim margin. While the board member did not give up her right to participate in political activity, the Legislature has established specific standards to guide the conduct of board members to ensure and preserve public confidence. See: N.J.S.A. 18A:12-22. These standards are set forth at N.J.S.A. 18A:12-24 and N.J.S.A. 18A:12-24.1. Board members, in exercising their right to participate in political activity, must ensure that the activity does not violate those standards.

Your question turns on the application of N.J.S.A. 18A:12-24.1(e), which provides:

I will recognize that authority rests with the board of education and will make no personal promises nor take any private action that may compromise the board.

In expressing your opinion in a letter to the editor or in statements to the press regarding the district's proposed budget you must remain mindful that authority rests with the board. In order to avoid a violation of N.J.S.A. 18A:12-24.1(e), you must ensure that the letter does not indicate that it is written on behalf of the board. Any statements you make or write should be made in your role as a citizen and not in your role as a board member. Furthermore, any written or oral information you provide must be made in a manner that does not compromise the board.

Your inquiry also turns on the application of N.J.S.A. 18A:12-24.1(g), which provides

N.J.S.A. 18A:12-24.1(g) provides:

I will hold confidential all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. In all other matters, I will provide accurate information and, in concert with my fellow board members, interpret to the staff the aspirations of the community for its school.

The Commission further advises that in expressing your opinion in writing or verbally you must maintain the confidentiality of all matters pertaining to the schools which, if disclosed, would needlessly injure individuals or the schools. You must also provide accurate information.

Based on the foregoing, the Commission advises that you would not violate the Act by sending a letter to the editor expressing your opinion about the budget or making a statement to the press as long as, in the letter or statement, you do not hold yourself out as a board member and the information is accurate and not confidential.

We hope that this opinion answers your inquiry.

Sincerely yours,

Paul C. Garbarini
Chairperson